

No. 21-13146

IN THE
United States Court of Appeals for the Eleventh Circuit

ERIC STEINMETZ; MICHAEL FRANKLIN; AND SHENIKA THEUS,
individually and on behalf of all others similarly situated,

Plaintiffs-Appellees,

v.

BRINKER INTERNATIONAL, INC.,

Defendant-Appellant.

On Fed. R. Civ. P. 23(f) Appeal from the
United States District Court for the Middle District of Florida
in Case No. 3:18-cv-00686-TJC-MCR (Corrigan, J.)

**MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR
REHEARING AND REHEARING EN BANC**

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July 19, 2023

Counsel for Appellant

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate procedure 26.1 and 11th Cir. R. 26.1-2(b), Appellant Brinker International, Inc. hereby certifies that upon information and belief, the briefs previously filed in this case identify all interested persons and entities.

Brinker International, Inc. (“Brinker”) is a publicly traded corporation (NYSE: EAT). Brinker has no parent company and no publicly held corporation owns 10% or more of Brinker’s stock.

/s/ Jonathan S. Franklin
Jonathan S. Franklin

July 19, 2023

Counsel for Appellant

**MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR
REHEARING AND REHEARING EN BANC**

Pursuant to Federal Rules of Appellate Procedure 35(c) and 40(a)(1) and 11th Circuit Rule 40-3, Defendant-Appellant Brinker International, Inc. (“Brinker”) respectfully moves to extend the time to file a petition for panel and en banc rehearing by fourteen days from August 1, 2023 to August 15, 2023. Brinker conferred with counsel for Plaintiffs-Appellees, who have stated that they take no position on this motion.

Good cause supports this motion. This Court has routinely granted extensions for rehearing petitions based on scheduling and other conflicts.¹ Here, a modest, fourteen-day extension is similarly warranted to prepare and file a rehearing petition in this appeal, which raises complex issues regarding class certification and was the subject of a dissent. Brinker’s appellate counsel currently faces several unavoidable conflicts, which under the current schedule will make adequate briefing of these complex issues difficult:

¹ See, e.g., Order, *Worldspan Marine Inc. v. Comerica Bank*, No. 20-11646 (11th Cir. Dec. 30, 2021) (granting extension sought based on conflict with counsel’s schedule); Order, *Am. Guar. & Liab. v. Liberty Surplus Ins. Corp.*, No. 19-11541 (11th Cir. Nov. 25, 2020) (granting extension sought based on complexity of appeal and intervening holiday); Order, *JPMCC 2006-LDP7 Miami Beach Lodging, LLC v. Sagamore Partners, LTD*, No. 14-11106 (11th Cir. Aug. 12, 2015) (new counsel and scheduling conflict).

- Jonathan S. Franklin (arguing appellate counsel) currently has a brief due in the Second Circuit on August 7, 2023 in *United States v. Türkiye Halk Bankası, A.S.*, No. 20-3499, on remand from the United States Supreme Court;
- Peter B. Siegal (additional appellate counsel) is on a significantly reduced schedule due to an ongoing family medical emergency; and
- Jason K. Fagelman (lead trial court counsel and additional appellate counsel) is currently out of the country on a pre-scheduled family trip and will not return until the evening of August 1, 2023, which is the date Brinker's rehearing petition is currently due.

Accordingly, Brinker respectfully requests a fourteen-day extension to give counsel adequate time to fully address the issues to be raised in the petition for rehearing.

CONCLUSION

For the foregoing reasons, appellant respectfully requests that the Court extend the deadline for Brinker's petition for rehearing by fourteen days to August 15, 2023.

Respectfully submitted,

/s/ Jonathan S. Franklin

Jonathan S. Franklin

Peter B. Siegal

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July 19, 2023

Counsel for Appellant

**CERTIFICATE OF COMPLIANCE
WITH WORD VOLUME LIMITATION**

Pursuant to Federal Rule of Appellate Procedure 32(g), I certify that this motion complies with the length limitations set forth in Fed. R. App. P. 27(d)(2)(A) because it contains 379 words, excluding the items that may be excluded under Fed. R. App. P. 27(a)(2)(B). I further certify that this motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman.

/s/ Jonathan S. Franklin
Jonathan S. Franklin

July 19, 2023

Counsel for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2023, I electronically filed the foregoing motion with the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system, which served the document by email on counsel for all parties.

/s/ Jonathan S. Franklin
Jonathan S. Franklin

July 19, 2023

Counsel for Appellant